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2 Tacoma, Washington 98421

3 UNITED STATES DISTRICT COURT  
4

5 IN AND FOR THE SOUTHERN DISTRICT OF NEW JERSEY  
6

7 Antolin Andrew Marks,  
8 Plaintiff ,  
9 vs.  
10 Michael Melendez  
Defendant.

Case No.  
SUIT FOR DAMAGES UNDER  
CONSTITUTION OF NEW MEXICO  
STATE, NEW MEXICO CIVIL CODES  
AND REVISED CODES  
FOR: DENIAL OF DUE PROCESS  
GUARANTEED BY THE FIFTH  
AMENDMENT  
For: 780,000. JURY TRIAL  
DEMANDED

FACTS

1. The Plaintiff is currently held by Immigration and Custom Enforcement Agency. He is held at the Northwest Detention Center headed by ICE. Plaintiff brings this Complaint to the Court because his rights have been violated, deliberately violated by Immigration and Customs Enforcement, a arm of the Government that does business in this District, and seeks damages against the actions that injure the Plaintiff. Plaintiff claims that Michael Melendez, an employee of ICE has violated his rights as follows and stands liable to the Plaintiff as set forth herein. Michael Melendez lives and works in New Jersey and the court has jurisdiction over his person.

24 CLAIM ONE  
25

1 VIOLATION OF THE RIGHT TO PETITION

2 . Although Plaintiff is not a prisoner, even prisoners have a  
3 First Amendment right to be free from certain interference  
4 with their "legal" mail. Wolff v. McDonnell, 418 U.S. 539,  
5 577, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974); Watson v. Cain,  
6 846 F. Supp. 621, 626 (N.D. Ill. 1993); see also Turner v.  
7 Safley, 482 U.S. 78, 84, 107 S. Ct. 2254, 96 L. Ed. 2d 64  
8 (1987). Therefore, prison officials may only inspect, not  
9 read, certain types of legal mail in the presence of the  
10 inmate. Wolff, 418 U.S. at 577; Bach v. People of State of  
11 Illinois, 504 F.2d 1100, 1102 (7th Cir. 1974); cert. denied,  
12 418 U.S. 910, 94 S. Ct. 3202, 41 L. Ed. 2d 1156 (1974). For  
13 example, correspondence between an inmate and an attorney  
14 (even a potential attorney or legal representative) is deemed  
15 confidential and therefore must be opened in the presence of  
16 the inmate. Wolff, 418 U.S. at 577; Bach, 504 F.2d at 1102;  
17 Watson, 846 F. Supp. at 629, 631.

18 . Likewise, the Plaintiff has the right to his privileges and  
19 immunities as a citizen of the United States, Twining v. New  
20 Jersey, 211 U.S. 78, 53 L. Ed. 97, 29 S. Ct. 14 (1908).  
21 Twining gave these examples of privileges and immunities of  
22 national citizenship, viz.:

23 . "The right to pass freely from state to state"; "the right  
24 to petition Congress for a redress of grievances"; "the right  
25 to vote for national officers"; "the right to enter the public

lands"; "the right to be protected against violence while in the lawful custody of a United States marshal." 211 U.S. at 97. See also, United States v. Cruikshank, 92 U.S. 542, 553, (23 L.Ed. 588; Crandall v. Nevada, 73 U.S. (6 Wall.) 35, 18 L. Ed. 745 (1867). It is the claim of the Plaintiff that ICE, has denied him the twin rights of the right to petition the government secured to him by the First Amendment and the right to seek redress.

5. First, the Plaintiff claims that it is unquestionable that he has a right to Petition Congress under the First Amendment. The question here is whether the Petitioner here has a right to have the Government Agency that holds him pay for the postage of the mail that he has submitted for delivery to Congress where he is an immigration detainee who seeks a private bill to his benefit for assistance in his immigration case. It is the claim of the Plaintiff that he has an unqualified right to petition the Congress of the United States.

6. We begin with the fact that the Plaintiff is an immigration detainee being held by the government. He is indigent and has submitted letters to be delivered to Congress because the Immigration and Naturalization Act contemplates the fact that Congress can grant relief to any immigration detainee through a private bill. As such, the Plaintiff must Petition Congress

1 and Petition each member of Congress for a private bill which  
2 would alleviate the conditions of his confinement.

3 7. On or about February 2<sup>nd</sup>, 2007 the Plaintiff provided to  
4 Immigration and Customs Enforcement a document that sought  
5 that the document be copied. This document included a letter  
6 to the members of Congress who are Democrats, a copy of the  
7 Visa Application for Rudder, Wayne, a scan of four pictures  
8 showing the Plaintiff at the age of 19, one document showing  
9 Rudder at the age of 14, and the exact same documents to the  
10 Senators who are Democrats and Independents. Immigration and  
11 Customs Enforcement refused to copy the letters stating that  
12 it was unreasonable for the Plaintiff to seek copies of the  
13 letters. Nonetheless, the Plaintiff received the letters and  
14 ultimately presented 285 letters to be mailed to Congress.  
15 After substantial resistance, over a period of a month, the  
16 letters were purportedly sent. Yet, it is the date of June 29,  
17 2007, 120 days later, and not one single response has come  
18 from those letters. None of the letters have been returned and  
19 this leads the Plaintiff to believe that Immigration and  
20 Customs Enforcement, did not mail the letters as he stated he  
21 did. It is the Plaintiff's belief that the letters were not  
22 sent by Immigration and Customs Enforcement as it stated and  
23 Immigration and Customs Enforcement is charged here with  
24 deliberately infringing upon the Plaintiff's right to seek to  
25 Petition Congress.

1           **8.** Thus, on the date of June 10<sup>th</sup>, 2007 the Plaintiff spoke to  
2           the Postmaster of the Tacoma Mail Office. That individual  
3           informed the Plaintiff to resubmit the letters for mailing and  
4           he would keep an eye out to determine whether or not the mail  
5           was being sent. Immigration and Customs Enforcement has been  
6           very adept at listening to conversations on the telephone and  
7           acting on what they hear. Thus, on the date 6-28-07 the  
8           Plaintiff prepared another 285 letters-one for each Democrat  
9           in Congress and one for each Democrat in the Senate, plus the  
10          two independents, and submitted them for mailing. In the  
11          follow-up letters presented for mailing the Plaintiff  
12          questioned why he had not been granted any responses to the  
13          previous letters. Because the Plaintiff must submit the  
14          letters for copying to Immigration and Customs Enforcement,  
15          there is no question that Immigration and Customs Enforcement,  
16          read the letters and then realized that the Plaintiff was  
17          questioning why his mail had not been responded to. Thus, on  
18          the date of 6-28-07 Immigration and Customs Enforcement stated  
19          that the letters would not be mailed. What Immigration and  
20          Customs Enforcement stated was the following:

21           **9.** "You receive postage of all legal mail to the Courts. The  
22          documents to Congress are not legal and they are special  
23          correspondence. You are hereby limited to five pieces of  
24          special correspondence per week." Thereby, Immigration and  
25          Customs Enforcement, stated that he was not going to send the

1 letters to Congress in any timely manner, meaning that it  
2 would take Plaintiff a full year, one month and one week to  
3 send all the letters to Congress that he wishes to send. The  
4 question regarding this part of the suit is whether the  
5 actions of Immigration and Customs Enforcement qualifies as a  
6 violation of the right to petition.

7 **10.** More than the right to petition, the Plaintiff claims  
8 that the mail should have been sent as a first matter because  
9 it was "Legal Mail" and the Supreme Court has held that the  
10 facilities that hold individuals must bear the cost of the  
11 postage where the postage is legal mail.

12 **11.** The first question that must be answered then is  
13 whether the mail qualified as legal mail and whether the mail  
14 should have been regarded as legal mail, and whether  
15 Immigration and Customs Enforcement, should have known that  
16 the mail was legal and that the Plaintiff had a legal right to  
17 send the mail. Plaintiff is unaware of a written definition of  
18 the term "legal mail," but here the Plaintiff will state that  
19 where the mail states clearly that it is legal mail, and it is  
20 directed to a party who can have an impact, good or bad over  
21 the conditions of confinement or the confinement of the  
22 person, then the mail must be considered legal mail.

23 **12.** In this case, the mail to Congress clearly meets the  
24 definition of legal mail. First, a person wishing to have a  
25 private relief bill introduced must, of course, persuade a

1 member of Congress that he or she has a meritorious claim for  
2 relief. If the Senator or Representative believes the matter  
3 merits legislative consideration, the member of Congress  
4 introduces the private bill for the relief of a named  
5 individual or individuals. The bill is referred to the  
6 Judiciary Committee of the house of Congress in which it is  
7 introduced. Most such bills are introduced in the House of  
8 Representatives. Note, Private Bills In Congress, 79 Harv. L.  
9 Rev. 1684, 1688 (1966). The Senate rules of procedure for  
10 private immigration bills are generally less formal than those  
11 of the House. Any private bill request must include basic  
12 biographical information on the proposed beneficiary. The  
13 requisite composition of a private bill request varies  
14 slightly based upon the status of the proposed beneficiary.

15 Subcomm. on Immigration, Senate Judiciary Comm., 105th Cong.,

16 Rules of Procedure: Private Immigration Legislation 1 (1999).

17 Having located the fact that there is the possibility that  
18 Congress and the Senate can act on a person's immigration  
19 matter and grant relief, the question becomes does the person  
20 have the right to petition Congress for the relief he seeks  
21 and does that right bear the protection of the Constitution?

22 **13.** Plaintiff here claims that he has a right to Petition  
23 Congress, a secondary right to seek relief under the private  
24 bill and has a right to transmit that information to Congress  
25 because he must persuade a member of Congress to introduce

1 such legislation to award relief. In order to gain the ear of  
2 Congress, the Plaintiff must be able to write the letter or  
3 the submission to the member of Congress and he must be  
4 assured that the letter he writes will actually be transmitted  
5 to Congress. Plaintiff first states that for Immigration and  
6 Customs Enforcement to state that he will not mail the letter  
7 to Congress is a violation of the right to petition, the right  
8 to send legal mail, and the right to seek redress, and a  
9 violation of due process under the Fifth Amendment and the  
10 First Amendment.

11 **14.** In support of the right, ICE National Standards which  
12 state, "Indigent detainees will be permitted to mail the  
13 following at government expense: 1. All correspondence related  
14 to a legal matter, including correspondence to a legal  
15 representative, potential legal representative and any court."  
16 It is clear here that the letters to Congress constituted  
17 legal mail as they were "correspondence related to a legal  
18 matter", where that legal matter is the Plaintiff's  
19 immigration matter.

20 **15.** Further, the Standards state, Special correspondence"  
21 is the term for detainees' written communications to or from  
22 private attorneys and other legal representatives, government  
23 attorneys, judges, courts, embassies and consulates, the  
24 president and vice president of the United States, members of  
25 Congress, the Department of Justice (including INS and Office

1 of the Inspector General), the U.S. Public Health Service,  
2 administrators of grievance systems, and representatives of  
3 the news media." Thus, the mail to Congress was guaranteed to  
4 be sent due to the fact that it is special correspondence  
5 related to a legal matter. As the ICE Standards establish the  
6 right that the Plaintiff has to mail his letters to Congress,  
7 Immigration and Customs Enforcement erred when he failed to  
8 allow the letters to be mailed.

9

10

11                   **PRIVATE BILL BY CONGRESS OR THE SENATE**

12         **16.**       Initially, the Attorney General had no discretion in  
13                   ordering deportation, and an alien's sole remedy was to obtain  
14                   a private bill from Congress. See Foti v. INS, 375 U.S. 217,  
15                   222 (1963). The first measure of statutory relief was included  
16                   in the Alien Registration Act of 1940, 54 Stat. 670. Under the  
17                   statutory predecessor of § 244, suspension of a deportation  
18                   order could be granted only if the alien demonstrated  
19                   "exceptional and extremely unusual hardship." Immigration and  
20                   Nationality Act of 1952, § 244 (a)(1), Pub. L. 414, 66 Stat.  
21                   214. This provision was amended to require that the alien show  
22                   that deportation would result in "extreme hardship," Act of  
23                   Oct. 24, 1962, Pub. L. 87-885, § 4, 76 Stat. 1248.

24         **17.**       The federal immigration laws are exceedingly complex.  
25         See Lok v. INS, 548 F.2d 37, 38 (2d Cir. 1977) (federal

immigration laws bear "striking resemblance . . . to . . . King Minos' labyrinth in ancient Crete."). The INA enumerates thirty-three general categories of people who may not enter the United States. See 8 U.S.C. § 1182. Deportable persons can come from these or nineteen other categories. See 8 U.S.C. § 1251. Beyond this, the INA provides for many circumstances which prevent a "deportable alien" from actual deportation. See 8 U.S.C. § 1254 (petition to suspend deportation); 8 U.S.C. § 1158 (political asylum); 8 U.S.C. § 1255 (adjustment to lawful permanent resident status); INS O.I. § 242(a)(22) (deferred action status). Deportation cases may be reopened on petition to consider evidence previously unavailable, or an Immigration Judge or the Board of Immigration Appeals may reopen the case *sua sponte*. See 8 C.F.R. §§ 3.22, 242.22. A final administrative order of deportation can be stayed by the district director, 8 C.F.R. § 243.4, by a private bill in Congress, INS O.I. § 107.1, or if departure is "prejudicial to the interests of the United States," 8 C.F.R. § 215.3. All these determinations are appealable to the BIA, the Circuit Courts of Appeals and, potentially, to the Supreme Court. See 8 U.S.C. § 1105a(a) (review of deportation decisions may be had in federal appellate court); 8 C.F.R. § 3.1(b) (appellate jurisdiction of 314).

**18.** Because of this skein of provisions, there is no assurance that a (person) subject to deportation will ever be

deported. An illegal entrant might be granted federal permission to continue to reside in this country, or even to become a citizen. In light of the discretionary federal power to grant relief from deportation, [a governmental authority] cannot realistically determine that any particular undocumented (person) will in fact be deported until after deportation proceedings have been completed. It would of course be most difficult for the [governmental authority] to justify a denial of [a benefit] to a [person] enjoying an inchoate federal permission to remain. Plyler v. Doe, 457 U.S. 202, 226, 72 L. Ed. 2d 786, 102 S. Ct. 2382 (1982) (citations omitted).

19. In the past, there was legislative participation in some of the adjustment procedures we have discussed, such as suspension of deportation and relief under the Displaced Persons and Refugee Relief Acts. But these were primarily devices for administrative dispensation, with a requirement for legislative scrutiny when administrative action was favorable. However, the constitutionality of such legislative participation is now doubtful to the extent that such legislative approval is required before an administrative decision can become final, See Chadha v. INS, 462 U.S. 919 (1983).

**20.** For many years there were increasing requests for direct intervention by Congress in individual cases. When all

1 other roads have been explored, when administrative relief has  
2 been denied and court action has proved fruitless, many  
3 persons have sought to avert the impact of the immigration law  
4 by special legislation. The introduction of a private  
5 immigration relief bill does not in itself block removal. But  
6 in many cases it will induce the administrative authorities  
7 voluntarily to stay their hands until Congress can act, (For a  
8 holding that court relief may be available if such a stay is  
9 denied, see Knauff v. McGrath, 181 F.2d 839 (2d Cir. 1950).)

10 **21.** Private immigration bills serve an array of functions.  
11 They allow for notions of fairness and equity to mitigate the  
12 frequently harsh operation of general immigration standards.  
13 More importantly, the proliferation of private bills of  
14 similar substance may expose a current law's deficiencies and  
15 spur Congress to amend the law of general applicability.  
16 Private bills have provided impetus for changes in the  
17 national origins quota system and exclusion laws, and have  
18 highlighted systemic gender inequities under naturalization  
19 laws, Robert Hopper & Juan Osuna, Remedies of Last Resort:  
20 Private Bills and Deferred Action, 97-06 Immigr. Briefings 2-3  
21 (June 1997). Conversely, general immigration laws may promote  
22 private bills. Restrictive immigration measures like the  
23 Illegal Immigration Reform and Immigrant Responsibility Act of  
24 1996 (IIRAIRA), Illegal Immigration Reform and Immigrant  
25 Responsibility Act of 1996 (IIRAIRA) (enacted as Division C of

Omnibus Consolidated Appropriations Act, 1997, Pub. L. No. 104-208, 110 Stat. 3009) often prove overinclusive in practice, thus generating a bevy of private bill requests from individuals with sympathetic claims, Hopper & Osuna, *supra* note 3, at 1.

**22.** Statistics illustrate the ebb and flow in the popularity of private immigration bills. In the 78th Congress (1943-1944), 163 private immigration bills were introduced; only twelve were enacted, Immigration and Naturalization Service, Dep't of Justice, 1992 Statistical Yearbook of the Immigration and Naturalization Service 178 (1993) (Table 79). Thereafter the number of bills and enactments rose sharply. In the 90th Congress (1967-1968), 7,293 private immigration bills were introduced and 218 were enacted. In the 91st Congress (1969-1970), 6,266 private immigration bills were introduced and 113 were enacted, Office of Immigration Statistics, Dep't of Homeland Security, 2002 Yearbook of Immigration Statistics 212 (2003) (Table 55) available at [uscis.gov/graphics/shared/aboutus/statistics/ybpage.htm](http://uscis.gov/graphics/shared/aboutus/statistics/ybpage.htm) (last visited July 13, 2004). These bills accounted for almost half of all bills, both public and private, introduced in Congress during those years. See Sidney Rawitz, In the Hands of Congress: Suspension of Deportation and Private Bills, 57 Interpreter Releases 76, 80 (Feb. 14, 1980).

## [2] -- Legislative Procedure

1           **23.**     A person wishing to have a private relief bill  
2            introduced must, of course, persuade a member of Congress that  
3            he or she has a meritorious claim for relief. If the Senator  
4            or Representative believes the matter merits legislative  
5            consideration, the member of Congress introduces the private  
6            bill for the relief of a named individual or individuals. The  
7            bill is referred to the Judiciary Committee of the house of  
8            Congress in which it is introduced. Most such bills are  
9            introduced in the House of Representatives. Note, Private  
10          Bills In Congress, 79 Harv. L. Rev. 1684, 1688 (1966).

11                 **[a]--House Private Bills Procedures**

12           **24.**     Since there are no statutory guides for such  
13            legislation, the standards for judgment are not fixed.  
14            However, the Subcommittee on Immigration and Claims of the  
15            House Judiciary Committee has published rules of procedure for  
16            private immigration legislation. Subcomm. on Immigration and  
17            Claims, House Judiciary Comm., 107th Cong., Rules of Procedure  
18            and Statement of Policy for Private Immigration Bills (2001)  
19            [hereinafter House Rules of Procedure], available at  
20            www.house.gov/judiciary/documents.htm (last visited July 12,  
21            2004). All requests for a private immigration bill must begin  
22            with a letter to the chairman of the subcommittee detailing  
23            the relevant facts of the case and must include ``all  
24            pertinent documents.'' Id. at 1. These should include the  
25            basic biographical information of all proposed beneficiaries,

close relatives, and interested parties, information detailing all entries and departures to and from the United States, the status of all pending petitions and immigration proceedings, occupational histories of proposed beneficiaries, and a signed statement from each beneficiary stating that he or she requests the relief sought by the private bill. Id. Most importantly, the request must include an exposition detailing how failure to provide for the desired relief will result in ``extreme hardship'' to the beneficiary. Id.

**25.** The showing above exposes the fact that the Plaintiff has the absolute right to seek relief through Congress and seeking such relief is a legal matter under the Fifth Amendment, not only a right of petition under the First Amendment.

**26.** Plaintiff claims that he resubmitted the documents for mailing on or about the date of June 20, 2007 and Immigration and Customs Enforcement again refused to mail the documents and this prevented the Plaintiff from gaining due process in his immigration proceeding in that the Plaintiff had a right to seek the relief from Congress under the law and that right was deliberately taken away from him by Immigration and Customs Enforcement

**PREJUDICE FROM THE NOT MAILING OF THE DOCUMENTS**

**27.** Plaintiff is a citizen of the United States who is held by ICE. He has a right to seek all available relief from

1 the continuing confinement and he has the right to seek relief  
2 through the act of Congress. Plaintiff, because he has been  
3 denied the opportunity to send the letters to Congress, is  
4 caused to spend an overlong time in custody. First,  
5 Immigration and Customs Enforcement, was wrong for not sending  
6 the first batch of letters and pretending that he had. Next,  
7 Immigration and Customs Enforcement, was wrong for preventing  
8 the mailing of the second bunch of letters that were to be  
9 sent to Congress and this has caused the Petitioner's claim  
10 not to be heard.

11 **28.** A private bill is provided for in 8 CFR, see INS v  
12 Jong Ha Wang, 450 U.S. 139, 140 and n.1 (1981). Immigration  
13 and Customs Enforcement, responded that it was "unreasonable"  
14 to approve those copies despite the fact that Plaintiff has an  
15 absolute right to reach the senators and the Congressmen and  
16 women under two amendments, the Due Process Clause of the  
17 Fifth Amendment as well as the New Mexico State Laws and New  
18 Mexico Constitution. provides the right to reach the senators  
19 and the Congress and the First Amendment right to petition  
provides the right to reach the Senators and the Congress.  
20 Yet, Immigration and Customs Enforcement, proclaimed that it  
21 was "unreasonable" to seek such copies and did not approve  
22 them. When the copies were gained from other sources,  
23 Immigration and Customs Enforcement, failed to mail the  
24 letters on two different occasions that they were presented to  
25

1 him for mailing. Because Immigration and Customs Enforcement,  
2 failed to mail the letters to Congress and wished to place  
3 restrictions on the mailing of letters to Congress, he  
4 violated my clearly established rights to petition and to seek  
5 due process through a private bill from Congress.

6 CLAIM TWO

7 ILLEGAL OPENING OF LEGAL MAIL/CONFIDENTIAL MAIL

8 **29.** Plaintiff claims that Immigration and Customs  
9 Enforcement, has either personally opened legal/confidential  
10 mail, or authorized the opening of confidential legal mail to  
11 the detriment of the Plaintiff's rights.

12 **30.** In particular, the Plaintiff claims that Immigration  
13 and Customs Enforcement, has authorized and approved the  
14 opening of correspondence, the copying of correspondence, the  
15 reading of correspondence where that correspondence was headed  
16 to the Seattle Times Newspaper and legal entities.

17 **31.** Plaintiff claims that he has a right to communicate  
18 with a reporter or the newspaper in a confidential letter.  
19 Moreover, he claims that he has the right to such privacy  
20 given by ICE National Standards which state, "Indigent  
21 detainees will be permitted to mail the following at  
22 government expense: 1. All correspondence related to a legal  
23 matter, including correspondence to a legal representative,  
24 potential legal representative and any court." Further, the  
25 Standards state, "Special correspondence" is the term for

1 detainees' written communications to or from private attorneys  
2 and other legal representatives, government attorneys, judges,  
3 courts, embassies and consulates, the president and vice  
4 president of the United States, members of Congress, the  
5 Department of Justice (including INS and Office of the  
6 Inspector General), the U.S. Public Health Service,  
7 administrators of grievance systems, and representatives of  
8 the news media."

9 **32.** The ICE Standards state, specifically, "Staff shall  
10 neither read nor copy special correspondence." The fact is  
11 that the Plaintiff will establish the fact that his special  
12 correspondence was opened by Immigration and Customs  
13 Enforcement, under Immigration and Customs Enforcement's  
14 authorization, and Immigration and Customs Enforcement, knew  
15 or should have known that it was illegal and unconstitutional  
16 to breach the security of that instrument which was opened,  
17 and copied and then used by Immigration and Customs  
18 Enforcement, for his own purposes.

19 **33.** In fact, ICE National Standards state, "Outgoing  
20 special correspondence will not be opened, inspected or read."  
21 Here, Immigration and Customs Enforcement, went further than  
22 opening the mail, they authorized the copying of the mail and  
23 reading of the mail and using of the mailed letter in a  
24 disciplinary against the Plaintiff.

1           **34.**      Immigration and Customs Enforcement has also been  
2            involved in the opening of another piece of mail directed to  
3            the Australian Embassy. This mail was directed to the  
4            Australian Embassy and the mail was opened, the document  
5            removed and photocopied and used as an exhibit by ICE before  
6            the Immigration Court. Plaintiff claims that he was violated  
7            of his due process rights by the opening of his mail directed  
8            to the Australian Embassy.

9           **35.**      Moreover, the Defendant may claim that he gained the  
10          document when it was presented for copying by the Plaintiff,  
11          but, even if the document was presented for copying, the  
12          Defendant has no right under the law to read that material  
13          where it is clearly a legal document on its face without it  
14          being read. The application to the Australian Embassy was a  
15          form seeking asylum in Australia away from the United States  
16          because of the problems he has been put through by the ICE  
17          agency. ICE has absolutely no right to read legal material  
18          presented for copying. In Wolff v. McDonnell, 418 U.S. at 575-  
19          77, the Court upheld a prison regulation that allowed staff to  
20          inspect, but not to read, inmates' legal mail. Lower courts  
21          have held that legal mail may not be read nor copied without  
22          the permission of the inmate. Jensen v. Klecker, 648 F.2d  
23          1179, 1182 (8th Cir. 1981); Ramos v. Lamm, 639 F.2d 559, 582  
24          (10th Cir. 1980), cert. denied, 450 U.S. 1041, 68 L. Ed. 2d  
25          239, 101 S. Ct. 1759 (1981); Guajardo v. Estelle, 580 F.2d

1           748, 758-59 (5th Cir. 1978). The Ninth Circuit has previously  
2           held that violation of confidentiality in legal documents  
3           presented for copying violates the meaningful access to the  
4           Courts, Casey v Lewis, 43 F. 3d 1261 (Overruled on other  
5           grounds, Lewis v. Casey, 518 U.S. 343, 358 n.6, 116 S. Ct.  
6           2174, 135 L. Ed. 2d 606 (1996)). Although the matter was  
7           overruled by the Supreme Court, it was not overruled on the  
8           merits of the claims, but on the lack of standing to proceed  
9           with the claims. In any case, the Supreme Court has previously  
10          stated that the mail should be confidential and the copies  
11          should be confidential.

12         **36.** Yet, the Plaintiff claims that Immigration and Customs  
13          Enforcement has gone further than this in its violations of  
14          the rights of the Plaintiff. In particular, the Plaintiff  
15          complains to the fact that he, of all 1,000 plus detainees at  
16          NWDC receives special treatment for his copy requests. First,  
17          the Plaintiff alleges and will prove that Immigration and  
18          Customs Enforcement, has allowed its staff to keep copies of  
19          the legal papers submitted by the Plaintiff for copying. He  
20          has allowed the reading of the papers, and he has allowed the  
21          faxing of the papers to counsels adverse to the Plaintiff and  
22          this will all be proven through discovery material held by ICE  
23          and Geo Group Inc.

24         **37.** Plaintiff has been injured by the continuing actions  
25          of Immigration and Customs Enforcement, where the documents

1           the Plaintiff prepares are practically obsolete once he  
2 provides a document to be copied because the documents are  
3 faxed to counsels by Immigration and Customs Enforcement and  
4 the counsels act on the content of the documents and this  
5 leaves the Plaintiff at a marked disadvantage.

6       **38.**      Plaintiff has been bothered by stressful conditions of  
7 confinement where he must present the materials to Immigration  
8 and Customs Enforcement to gain copies and must succumb to the  
9 illegal actions of Immigration and Customs Enforcement.

10       **39.**      Plaintiff has not been the lone person whose mail is  
11 tampered with by Immigration and Customs Enforcement, and  
12 whose copies confidence are violated by Immigration and  
13 Customs Enforcement,. One detainee, in particular, Damion  
14 Bromfield's legal mail was opened by Geo acting under  
15 Immigration and Customs Enforcement,'s guidance.

16       **40.**      Other detainees have routinely been denied their right  
17 to confidential mail when it is legal mail. Plaintiff  
18 specifically claims and alleges that the Grievance files of  
19 Geo and ICE will show the fact of the violations of law.

20       **41.**      On the date of January 10<sup>th</sup>, 2008 ICE refused to mail  
21 letters to the embassies where the letters were seeking travel  
22 documents so the Plaintiff could leave the United States and  
23 leave his indefinite confinement. Those letters were presented  
24 for mailing and ICE refused to mail those letters even while  
25 they were asserting in court that the Petitioner had refused

1 to comply with mandates that he assist in the attempt to gain  
2 documents from embassies. This denied due process to the  
3 Petitioner.

4

5

6 **COPIES OF LEGAL DOCUMENTS**

7 **42.** Plaintiff cannot complain enough of the lack of  
8 confidentiality in his legal documents. First, the documents  
9 that are printed off the Computer are read by the librarian  
10 under direction by Immigration and Customs Enforcement.

11 **43.** Second, the documents that are submitted for copying  
12 are read by the Warden under guidance and direction by  
13 Immigration and Customs Enforcement.

14 **44.** Third, the documents are copied under the Direction of  
15 Immigration and Customs Enforcement, for the personal purposes  
16 of Geo and ICE.

17 **45.** Fourth, the documents submitted for copies are used by  
18 ICE and Geo for their own purposes including faxing documents  
19 to their counsels, and using the documents in "Declarations"  
20 to the District Court and the Immigration Court.

21 **46.** Plaintiff claims that it violates his right to  
22 meaningful access where the Defendants have copied his legal  
23 documents for their own purposes, used those documents for  
24 their own purposes, and faxed those documents to their  
25 counsels for their own purposes.

47. Plaintiff claims that when the documents printed in the library is read by the librarian it is a violation of the right to confidentiality.

**DENIAL OF RIGHT TO SEEK UNITED STATES PASSPORT**

**48.** Plaintiff claims that he has a right to seek a United States Passport and such right exists under the Fifth Amendment as well as the New Mexico State Laws and New Mexico Constitution. Due Process clause where there is an immigration matter at issue.

**49.** In other words, the Plaintiff claims that the United States Passport is the best evidence of United States Citizenship.

**50.** Under [ 8 C.F.R. § 204.1(g)(1)] the following is true that the seeking and gaining of a United States Passport is the ultimate defense against removal as it establishes citizenship;

(g) --Evidence of petitioner's United States citizenship or lawful permanent residence.--

(1) -- Primary evidence.

22 A petition must be accompanied by one of the following:

23 | (i) --

24 A birth certificate that was issued by a civil authority and that  
25 establishes the petitioner's birth in the United States.

1 (ii)--

2 An unexpired United States passport issued initially for a full ten-  
3 year period to a petitioner over the age of eighteen years as a  
4 citizen of the United States (and not merely as a noncitizen  
5 national);

6 (iii)--

7 An unexpired United States passport issued initially for a full five-  
8 year period to the petitioner under the age of eighteen years as a  
9 citizen of the United States (and not merely as a noncitizen  
10 national);"

11

12 **51.** Plaintiff claims that he had accomplished the act of  
13 gaining his birth certificate from the County Recorder of Los  
14 Angeles, and needed to present such certificate to the United  
15 States Passport Agency or the United States District Court but  
16 was prevented from doing so by Immigration and Customs  
17 Enforcement, and this denied the Plaintiff his due process  
18 under the law.

19 **52.** And the Plaintiff claims that Immigration and Customs  
20 Enforcement, knew that the Plaintiff had a right to due  
21 process on his claims and has a right to seek such a passport  
22 but Immigration and Customs Enforcement, prevented the  
23 Plaintiff from seeking and gaining such a passport and denied  
24 the due process of the Plaintiff in the Immigration Hearing  
25 where the Plaintiff was not able to produce the passport and,

1 as a direct result of Immigration and Customs Enforcement,'s  
2 actions, was denied relief from an order of removal.

3 **53.** Plaintiff specifically claims that he is a citizen of  
4 the Untied States and his privilege includes the right to seek  
5 a United States passport for any purpose including a challenge  
6 in the immigration proceeding and that Immigration and Customs  
7 Enforcement, violated that right and denied him due process by  
8 doing so in violation of the Fifth Amendment.

9 **VIOLATION OF THE RIGHT TO CALLS & CONFIDENTIAL CALLS TO COUNSELS**

10 **54.** Plaintiff claims that since his arrival at the  
11 Northwest Detention Center he has been denied the right, by  
12 Immigration and Customs Enforcement,, to make calls &  
13 confidential calls to counsels and that has injured him by  
14 violating his rights under the Fifth Amendment. He has been  
15 denied the ability to call the persons listed in Exhibit A.

16 **55.** In particular, the Plaintiff claims that Immigration  
17 and Customs Enforcement has recorded telephone calls to  
18 counsels, sanctioned the listening in to calls to counsels,  
19 and that he has violated the ICE policy regarding the  
20 confidentiality of calls to counsels.

21 **56.** In particular, the Plaintiff claims that Immigration  
22 and Customs Enforcement has sanctioned the use of confidential  
23 information gained from listening into privileged calls and  
24 has sanctioned the use of that information to injure the  
25 Plaintiff.

1           **57.**       In particular, the Plaintiff claims that on one  
2            occasion he was speaking to a Newspaper Outlet, the Seattle,  
3            Times when the call was listened in to by persons who had been  
4            allowed to do so by Immigration and Customs Enforcement.

5           **58.**       Plaintiff claimed that the contents of the  
6            conversation were then used to perform an investigation  
7            against the Plaintiff and the Plaintiff was punished by  
8            persons who were supported by Immigration and Customs  
9            Enforcement.

10          **59.**       Plaintiff claims that the listening person learned  
11           information that was privileged and this led directly to the  
12           opening of a piece of mail that was directed to the newspaper,  
13           and that the mail was taken and not returned to the Plaintiff  
14           and Plaintiff was punished.

15          **60.**       Plaintiff claims that Immigration and Customs  
16           Enforcement has prevented the Plaintiff from calling counsels  
17           confidentially where such confidential calls to counsels were  
18           needed in order to gain representation of the Plaintiff in his  
19           immigration matter.

20          **61.**       Plaintiff specifically claims that ICE has a policy  
21           where the calls to counsels are to be confidential and  
22           Immigration and Customs Enforcement violated that policy by  
23           failing to allow the Plaintiff to call the persons listed on  
24           Exhibit A confidentially.

1           **62.** Plaintiff claims that every number listed on Exhibit A  
2           are legal calls where confidentiality is necessary to reach  
3           the courts and Immigration and Customs Enforcement denied such  
4           confidentiality where the Plaintiff needed such  
5           confidentiality in order to discuss his case needs.

6           **63.** In particular, Plaintiff specifically claims that  
7           Immigration and Customs Enforcement did specifically admit in  
8           litigation that calls made on the telephone have been recorded  
9           and monitored.

10          **64.** Plaintiff specifically claims that prior to admitting  
11         that the calls on the telephone had been monitored and  
12         recorded, Immigration and Customs Enforcement and his staff  
13         specifically stated to the Plaintiff that the telephones were  
14         not monitored and the calls were not recorded.

15          **65.** Plaintiff claims for the period of from August of 2005  
16         through June of 2007 the phone calls at the Northwest  
17         Detention Center have been recorded and monitored by  
18         Immigration and Customs Enforcement while he maintained  
19         publicly and in writing that the calls were not being  
20         monitored.

21          **66.** Plaintiff claims that Immigration and Customs  
22         Enforcement specifically violated ICE policy by recording and  
23         monitoring the telephone calls where he should have known, and  
24         did know those calls were to legal counsel.

1           **67.**       In particular, the Plaintiff claims that Immigration  
2            and Customs Enforcement knew and was fully aware that ICE  
3            Policy in the ICE National Standards state that a court order  
4            shall be required to monitor and record telephone calls to  
5            counsel and other privileged persons and Immigration and  
6            Customs Enforcement deliberately violated that Standard.

7           **68.**       Plaintiff claims injury in the form of the fact that  
8            he has been unable to gain counsel to represent his  
9            immigration matter because he has been unable to speak  
10           confidentially to persons who would be counsels and was unable  
11           to speak to counsels who are often in places where they cannot  
12           make visits to the Center for personal visitations and  
13           consultations.

14           **69.**       Plaintiff specifically claims that the Plaintiff has  
15           no alternative to the telephone confidentiality as the  
16           Defendant also opens legal mail directed to entities that he  
17           knows to be legal or privileged and reads, copies and uses the  
18           contents for his own purposes in violation of clearly  
19           established law.

20           **DENIAL OF RIGHT TO ACCESS COUNSEL THROUGH TOLL FREE NUMBERS**

21           **70.**       The Plaintiff claims that Immigration and Customs  
22           Enforcement has denied him the right to access counsel who  
23           advertise using toll free numbers.

24           **71.**       Plaintiff claims that most counsels who advertise  
25           using the television or printed medium utilize toll free

1 numbers, but the Plaintiff has been prevented from accessing  
2 those counsels where the calls are toll free and this had  
3 denied him access to counsel and to the courts.

4 **72.** Moreover, the Plaintiff claims that Immigration and  
5 Customs Enforcement has violated his right to gain information  
6 from governmental agencies where that information can be used  
7 in his immigration matter by failing to have toll free calling  
8 on the telephone lines at Northwest Detention Center.

9 **73.** Plaintiff claims that he has been denied access to  
10 such Agencies such as United States Citizen and Immigration  
11 Services, United State Bureau of Immigration and Custom  
12 Enforcements, United States Armed Forces, United States Social  
13 Security Administration, United States Department of Health  
14 Education and Welfare, where all such Agencies has information  
15 that would assist him in his matter by providing information.

16 **DENIAL OF DUE PROCESS BY DENIAL OF DOCUMENTS AND VIOLATING**

17 **SUBPOENAS**

18 **74.** Plaintiff claims that Immigration and Customs  
19 Enforcement has violated his due process rights by denying him  
20 access to documents held by his office where those documents  
21 were important to the Plaintiff's case (s).

22 **75.** In particular, the Plaintiff claims that in  
23 litigations he has the right to discover items held by  
24 Immigration and Customs Enforcement thorough the use of  
25 subpoenas.

1           **76.** Plaintiff claims that Immigration and Customs  
2 Enforcement has prevented the Plaintiff from gaining access to  
3 such documents as follows: GEO Custody File held by Geo for  
4 ICE; ICE Grievances filed by the Plaintiff, Kites filed by the  
5 Plaintiff with ICE, Copies of the file of Marva Rudder, Copies  
6 of the File of Joanne Rudder, and other items such as E-Mails  
7 sought in discovery in the Immigration matter and the other  
8 legal matters.

9           **77.** Plaintiff claims that Immigration and Customs  
10 Enforcement has set out to deny him due process in his legal  
11 matters by withholding the items above to prevent the  
12 Plaintiff from succeeding in his legal matters and this marks  
13 a violation of the rights of the Plaintiff through obstruction  
14 of Justice by Immigration and Customs Enforcement.

15           **78.** Plaintiff claims that he has been denied due process  
16 by Immigration and Customs Enforcement where Immigration and  
17 Customs Enforcement has deliberately withheld evidence that he  
18 knew was to be used in the Courts against the Service or  
19 against Immigration and Customs Enforcement personally.

20           **79.** Plaintiff specifically claims that he needed the files  
21 of Marva Rudder and Joanne Rudder because those files would  
22 lead to evidence showing that the Plaintiff is not Wayne  
23 Rudder, but Immigration and Customs Enforcement has failed to  
24 provide those files even though he was personally in  
25 possession of those files at one point in time where he showed

1                   the Plaintiff the files and taunted the Plaintiff with the  
2                   files.

3       **80.**       Plaintiff claims that the files of Joanne Rudder and  
4                   Marva Rudder would have provided testimony from the Rudders  
5                   that the Plaintiff is not their sibling and that would have  
6                   been sufficient to release the Plaintiff who has maintained  
7                   that he merely used the Rudder identity for financial gain  
8                   once upon a time and that he is not Rudder but a person who  
9                   was born Vincent Daniel Hopper.

10      **81.**       Plaintiff claims that Immigration and Customs  
11                  Enforcement has violated his due process by denying access to  
12                  the files.

13

14

15                   **DISCRIMINATION AND RETALIATION**

16      **82.**       Plaintiff claims that Immigration and Customs  
17                  Enforcement has retaliated against him and discriminated  
18                  against him by denying him the access to the legal library on  
19                  a par as other persons in the facility and this denial of  
20                  library access has been specifically to discriminate against  
21                  the Plaintiff on the basis of sex, color, sexual orientation,  
22                  intelligence, and capability.

23      **83.**       In particular, the Plaintiff claims that he has legal  
24                  deadlines that are always imminent.

1           **84.**       In particular, the Plaintiff claims that he has been  
2            in the library with other persons who do not have legal  
3            deadlines.

4           **85.**       Plaintiff claims that the Policy states that the  
5            persons with legal deadlines will be given priority to access  
6            legal resources over those without deadlines.

7           **86.**       Yet, the Plaintiff claims that over the past two years  
8            he has been discriminated against by Immigration and Customs  
9            Enforcement who has granted persons without legal deadlines  
10           more time in the library against the Plaintiff who has shown  
11           Immigration and Customs Enforcement verifiable legal deadlines  
12           and this has injured the Plaintiff by causing him to not have  
13           sufficient time to respond to pleadings or to file actions in  
14           the Courts.

15           **87.**       Plaintiff claims that Immigration and Customs  
16           Enforcement set out to discriminate against the Plaintiff on  
17           the basis of sex, color, sexual orientation, intelligence, and  
18           capability.

19           **88.**       Plaintiff claims that Immigration and Customs  
20           Enforcement set out to discriminate against the Plaintiff on  
21           the basis of sex, color, sexual orientation, intelligence and  
22           capability specifically to inhibit the Plaintiff's ability to  
23           reach the Courts.

24           **89.**       In particular, Plaintiff claims that while other  
25           persons without legal deadline routinely receive fifteen or

1 more hours in the library for their own work, Plaintiff has  
2 received only ten hours in the library when he has numerous  
3 deadlines and the Plaintiff claims that Immigration and  
4 Customs Enforcement actions were purely to prevent the access  
5 to the Courts.

6

7 **DENIAL OF ACCESS TO THE STATE COURTS**

8 **90.** Plaintiff claims that Immigration and Customs  
9 Enforcement has denied him access to the State Courts by  
10 failing to have the forms that are necessary to gain access to  
11 the State Courts.

12 **91.** Plaintiff claims that he has attempted to file actions  
13 in the State Courts only to have the Court demand summons, a  
14 form that is used by the State Courts, but the Plaintiff,  
15 despite numerous requests to Immigration and Customs  
16 Enforcement, was denied access to the Summons and has lost an  
17 opportunity to seek relief in the State Courts which violates  
18 his right to seek redress under the First Amendment.

19 **92.** Plaintiff claims that he wished to file suit against  
20 Mc Hatton, an employee under Immigration and Customs  
21 Enforcement and he was prevented from doing so.

22 **93.** Plaintiff claims that he wished to file suit against  
23 Geo Employees and ICE Employees but was denied any opportunity  
24 to do so due to the lack of forms and lack of information in  
25 the Legal Library ran by Immigration and Customs Enforcement.

1           **94.** Plaintiff claims that he has a right under the First  
2            Amendment and the Fifth Amendment as well as the New Mexico  
3            State Laws and New Mexico Constitution to reach the State  
4            Courts of New Mexico as the place Geo Care has a place of  
5            business which is in New Mexico, but Immigration and Customs  
6            Enforcement denied that right.

7           **95.** Plaintiff specifically claims that he gained the right  
8            to file the suit by the Washington District Courts, but the  
9            Courts specifically sought that summons be presented to the  
10           Court for the Court to process the suit, but Immigration and  
11           Customs Enforcement, after numerous requests denied the  
12           Plaintiff access to the Courts by failing to have forms for  
13           the State Courts.

14           **96.** In particular, the Plaintiff claims that Immigration  
15           and Customs Enforcement has access to the Summons and access  
16           to all State Court forms but deliberately prevent the  
17           Plaintiff from having such access to prevent the Plaintiff  
18           from accessing the Courts.

19           **97.** Plaintiff claims that Immigration and Customs  
20           Enforcement specifically sought to prevent the Plaintiff from  
21           accessing the Courts of the State in order to confine the  
22           Plaintiff to only claims in the Federal Court because ICE has  
23           more influence over the federal judges than over the state  
24           judges.

1           **98.**       In particular, the Plaintiff claims that had he been  
2           able to bring the suits he has filed in federal court in the  
3           state court system, he would have prevailed in every one of  
4           the suits where magistrates are not beholden to the system.

5           **99.**       Plaintiff claims that he wished to bring suits in the  
6           State courts challenging his conditions of confinement and his  
7           confinement as the State Court Judges could also order his  
8           relief from conditions or release from confinement, but  
9           Immigration and Customs Enforcement has prevented the  
10          Plaintiff from gaining access to the State Courts of  
11          Washington.

12          **100.**      In particular, the Plaintiff claims that Immigration  
13          and Customs Enforcement has also prevented access to the State  
14          Courts by failing to have any information in the library that  
15          would allow the Plaintiff to know his rights under the State  
16          Law.

17          **101.**      In particular, the Plaintiff claims that the ICE  
18          National Standards state that ICE shall obey and follow the  
19          Washington Administrative Manual and the Plaintiff has been  
20          unable to access that Manual to know what the manual states  
21          his rights are.

22          **102.**      Plaintiff claims that he has been unable to know what  
23          his rights are under the State of Washington and New Mexico  
24          Constitutions as the library does not have a copy of that  
25          document.

1           **103.** Plaintiff claims that he has been unable to know what  
2            his rights are under the formative state laws of the State of  
3            New Mexico and the process of vindicating those rights because  
4            the library does not have the state laws in the library.

5           **104.** Plaintiff specifically claims that Immigration and  
6            Customs Enforcement has been requested, by the Plaintiff, on  
7            numerous occasions to gain the law regarding the State of New  
8            Mexico but has failed to do so.

9           **105.** Plaintiff claims that only in June of 2007, after two  
10          years of requests, Immigration and Customs Enforcement gained  
11          the criminal law for the State of New Mexico<sup>1</sup> where that law  
12          is/was needed to allow persons to challenge their criminal  
13          conviction as part of their immigration matters.

14          **106.** Plaintiff claims that Immigration and Customs  
15          Enforcement prevented him from gaining a copy of the American  
16          Correctional Association Standards where Immigration and  
17          Customs Enforcement has copies of that document and where that  
18          document provides specific rights to detainees, and, by so  
19          doing, the Defendant has prevented the Plaintiff from knowing  
20          his rights under the law.

21          **107.** Plaintiff claims that the American Correctional  
22          Standards has information therein that deal with the  
23          conditions of confinement and the National Standards that ICE

24  
25          

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<sup>1</sup> Codes of New Mexico

1 and Immigration and Customs Enforcement **must** follow through  
2 contract with the ACA, but Immigration and Customs Enforcement  
3 has hidden those facts by failing to have a copy of the ACA  
4 standards in the library accessible to detainees. He has also  
5 failed to honor requests issued in litigation to provide the  
6 copy of those standards and that has denied the Plaintiff due  
7 process in his claims against Immigration and Customs  
8 Enforcement.

9 **108.** Plaintiff claims that Immigration and Customs  
10 Enforcement set out to deny the Plaintiff due process in his  
11 claims against Immigration and Customs Enforcement and ICE by  
12 deliberately failing to have any access to civil cases in the  
13 library.

14 **109.** In particular, the Plaintiff claims that Immigration  
15 and Customs Enforcement has gutted the discs in the library  
16 where the civil cases should be, and, as a direct result, the  
17 Plaintiff has no access to any of the civil cases in the  
18 library where those cases are the leading cases in the law.  
19 Cases that are needed in order to file suit are not evident.  
20 Laws that are needed to file suit are not evident. In  
21 particular, the Plaintiff claims that he had sought to file a  
22 criminal successive petition in the Court of Appeals but none  
23 of the cases dealing with successive appeals could be accessed  
24 because they had been gutted from the discs.

110. Plaintiff specifically claims that the Plaintiff  
sought to learn information that would assist him in filing  
actions in the Court and properly defending actions in the  
District Court but he was unable to do so because the cases  
were not available.

111. Plaintiff claims that when the Defendant provides pleadings to the Plaintiff they are never without numerous citations to law that the Plaintiff cannot reach.

## **PATTERN OF DENIAL OF DUE PROCESS**

112. Plaintiff claims that Immigration and Customs Enforcement has entered into a pattern of denial of due process by allowing subordinates to engage in ruthless violations of the due process of the Plaintiff by punishing the Plaintiff for reasons that have no basis in fact and no foundation in law.

113. In particular, the Plaintiff claims that he is a  
Fourth Amendment Detainee and cannot be punished absent due  
process, but Immigration and Customs Enforcement has engaged  
in a pattern of allowing the Plaintiff to be punished by his  
subordinates where the Plaintiff does not warrant such  
punishment and where the denial of due process is intrinsic to  
the violation of the rights.

**114.** In particular, the Plaintiff claims that during the "hearings" given by Immigration and Customs Enforcement he is

1 never allowed to call and question witnesses. And that  
2 violates his due process under the Fifth Amendment.

3 **115.** In particular, the Plaintiff claims that he is never  
4 given all documents that are relied upon by Immigration and  
5 Customs Enforcement and his underlings and this violates the  
6 due process of the Plaintiff under the Fifth Amendment.

7 **116.** In particular, the Plaintiff claims that he is never  
8 granted due process in the hearings held by Immigration and  
9 Customs Enforcement and the proceedings are kangaroo courts  
10 that are designed to punish the Plaintiff without due process.

11 **117.** In particular, the Plaintiff claims that he has been  
12 sent to segregation where the ICE National Standards  
13 specifically state that Segregation is a place for persons who  
14 have violated certain institutional rules, none of which the  
15 Plaintiff has violated.

16 **118.** Plaintiff claims that Immigration and Customs  
17 Enforcement has presided over a facility where false reports  
18 are written and then upheld by his underlings and those false  
19 reports are written specifically to injure the Plaintiff.

20 **119.** Plaintiff claims that Immigration and Customs  
21 Enforcement has presided over a facility where the underlings  
22 have taken the Plaintiff's personal property in the form of  
23 the Plaintiff's Bible and his commissary items worth 40.20  
24 where such taking was punitive and a denial of due process.  
25 Moreover, Immigration and Customs Enforcement failed to answer

the Tort Claims presented to his office on this issue and he has refused to process that Tort Claim despite the fact that he has held it for an overlong period.

**120.** Moreover, the Plaintiff claims that Immigration and Customs Enforcement has conspired to deny due process by failing to provide the Plaintiff with a copy of the grievance with the Tort Claim attached thereto which was presented to Immigration and Customs Enforcement.

**121.** It is the same with every grievance with a Tort Claim attached where the Plaintiff sought to exhaust his administrative remedy. Immigration and Customs Enforcement has held the grievances and have not returned the Tort claims made in those grievances and this violates due process.

122. Then, after failing to provide answers to the grievances, where each grievance also made demand for a sum certain under the FTCA, Immigration and Customs Enforcement secreted the documents and prevented the Plaintiff from gaining copies of the documents and failed to adjudicate the factor of the FTCA Claims that were individually made to ICE and the United States.

## **WRONGFUL IMPRISONMENT**

**123.** Plaintiff claims that United States, Immigration and Customs Enforcement have wrongfully imprisoned the Plaintiff from the period of time from March 6, 2006 through the present

1 and their actions violate the due process clause of the United  
2 States Constitution.

3 **124.** In particular, the Plaintiff claims that he provided a  
4 certified copy of his birth certificate to Immigration and  
5 Customs Enforcement, Garman on the date of March 6, 2006.  
6 This Birth Certificate established the fact that the  
7 Plaintiff's name is Vincent Daniel Hopper and that he was born  
8 in Lynwood City, Los Angeles County on the date of 8-27-60.  
9 Upon receipt of the document, Immigration and Customs  
10 Enforcement began actions that would hide the fact of the  
11 Plaintiff's identity and his nationality.

12 **125.** In particular, Immigration and Customs Enforcement hid  
13 the birth certificates. They seized the birth certificates and  
14 hid them from the Plaintiff so the Plaintiff could not use the  
15 certificates in his pleadings to the District Court and to the  
16 United States Passport Agency.

17 **126.** Then, Immigration and Customs Enforcement set out to  
18 wrongfully imprison the Plaintiff by refusing to properly  
19 investigate the facts of the Plaintiff's identity and instead  
20 sought to manufacture evidence to disprove that identity.

21 **127.** Immigration and Customs Enforcement did not speak to  
22 the Plaintiff's parents even though Immigration and Customs  
23 Enforcement has the tools<sup>2</sup> with which to make such contact

25

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<sup>2</sup> Choice Point etc.

1           with the Plaintiff's parents while the Plaintiff does not have  
2           such tools.

3       **128.**      Plaintiff has three brothers, Stephen, and James where  
4           all three are Hoppers and all three have been involved with  
5           the law and their DNA is on file with the Department of  
6           Justice. Immigration and Customs Enforcement failed to gain  
7           information from the DNA banks of the DOJ when such would have  
8           established conclusively that the Plaintiff is a Hopper and  
9           not a Rudder.

10       **129.**      Immigration and Customs Enforcement did not  
11           investigate the circumstances of the Plaintiff's accidents in  
12           the past where such accidents led to brain injury to the  
13           Plaintiff when the Plaintiff informed Immigration and Customs  
14           Enforcement of that fact.

15       **130.**      Instead of trying to establish the Plaintiff's  
16           identity, Immigration and Customs Enforcement engaged in a  
17           corruption of the facts. They found one person who has used  
18           variations of the Plaintiff's name in the past, has never used  
19           the entire and complete name of the Plaintiff and settled on  
20           that person being Vincent Daniel Hopper solely based upon the  
21           fact that the person is "light complected" and Plaintiff's  
22           father is White.

23       **131.**      Immigration and Customs Enforcement discounted the  
24           fact that the person answered to the name Darryl Yates.  
25

1           **132.**     Immigration and Customs Enforcement did not search  
2           police records for the identification of Darryl Yates in order  
3           to link the person and Darryl Yates as being one person.  
4           Instead, Immigration and Customs Enforcement used the fact  
5           that they had found this one person who used variations of the  
6           Plaintiff's name to justify their belief that Darryl Yates is  
7           the real Vincent Daniel Hopper while the Plaintiff is Wayne  
8           Rudder.

9           **133.**     Immigration and Customs Enforcement had at their  
10          access the files of Joanne Rudder and Marva Rudder where those  
11          A Files are numbered 34-316-599 and 34-316 601. Instead of  
12          using those files to locate Marva Rudder and Joanne Rudder so  
13          they could gain information from those files to use either  
14          against the Plaintiff or on the Plaintiff's behalf,  
15          Immigration and Customs Enforcement took those files and  
16          secreted those files. They failed to provide the files when  
17          they were sought to provide the files to the Plaintiff. The  
18          provision of the files would have provided evidence to the  
19          Plaintiff to present that evidence to the Court that the  
20          Plaintiff is a citizen of the United States, or, at the very  
21          least, is not a non-citizen named Rudder. Immigration and  
22          Customs Enforcement denied due process.

23           **134.**     In short, Plaintiff claims that Immigration and  
24          Customs Enforcement failed to adequately investigate the  
25          circumstances and jumped to the conclusion that the Plaintiff

1 was Rudder despite the Plaintiff's loud protestations that he  
2 is not Rudder.

3 **135.** Plaintiff provided evidence to Immigration and Customs  
4 Enforcement that Plaintiff's DNA is on file with the  
5 Department of Justice in the identity of Vincent Daniel  
6 Hopper. Plaintiff provided evidence that the Plaintiff's  
7 fingerprints are listed in the Department of Justice as  
8 Vincent Daniel Hopper. Yet, Immigration and Customs  
9 Enforcement continued the incarceration of the Plaintiff  
10 despite the fact that the Plaintiff is a citizen of the United  
11 States and should not ever be impacted by Immigration and  
12 Customs Enforcement .

13 **136.** Plaintiff claims that Immigration and Customs  
14 Enforcement continued the incarceration of the Plaintiff  
15 because they were vindictive and because they were retaliating  
16 for the many suits filed against ICE and INS by the Plaintiff  
17 where those suits have had substantive differences in the  
18 operation of the agency.

19 **137.** Plaintiff claims that Immigration and Customs  
20 Enforcement continued the incarceration of the Plaintiff to  
21 punish the Plaintiff.

22 **138.** Plaintiff claims that the fact that Immigration and  
23 Customs Enforcement and Garman ha attempted to shift custody  
24 of the Plaintiff on March 14, 2006 is indication that they are  
25

1 aware that the Plaintiff is not an alien but is a citizen of  
2 the United States.

3 **139.** Plaintiff claims that Immigration and Customs  
4 Enforcement and Garman acted deliberately to keep the  
5 Plaintiff behind bars by denying the Plaintiff access to  
6 information where that information would provide a showing  
7 that the Plaintiff is a citizen of the United States.

8 **140.** Plaintiff claims that Immigration and Customs  
9 Enforcement and Garman were deliberate in attempting to cement  
10 that the Plaintiff was not Hopper instead of learning whether  
11 or not the Plaintiff is Rudder.

12 **141.** Plaintiff claims that when he applied to the USCIS for  
13 an N 600-Declaration of Citizenship, Immigration and Customs  
14 Enforcement and Garman placed the Plaintiff into the USCIS  
15 computers as being a person named Wayne Ricky Elson Rudder  
16 where they had specific information that the Plaintiff was not  
17 Rudder.

18 **142.** In particular, the Plaintiff claims that he had a due  
19 process right that Garman and Immigration and Customs  
20 Enforcement and their staff would use their entire resources  
21 to determine the facts of citizenship, not just to attempt to  
22 disprove citizenship where there is no such proof that would  
23 disprove citizenship: 1. There are no fingerprints for Rudder  
24 when Rudder entered the United States. 2. There are no  
25 fingerprints for Rudder shortly when he arrived in the United

1 States. 3. There are no prints for Rudder when he was born. 4.  
2 There is no DNA on file anywhere for Rudder. 5. A fingerprint  
3 can only prove the identity of a person if the fingerprint is  
4 taken at birth or close to birth.

5 **143.** In other words, the Plaintiff claims that fingerprints  
6 identify only the person who gave the fingerprints and not the  
7 identity that person was born with. Yet, Garman and  
8 Immigration and Customs Enforcement used the fact that the  
9 Plaintiff had been printed as Rudder, had testified as Rudder,  
10 to find that the Plaintiff was Rudder despite the fact that  
11 the Plaintiff provided evidence to Garman and Immigration and  
12 Customs Enforcement that specifically showed that he was not  
13 Rudder.

14 **144.** Plaintiff claims that he has been wrongly imprisoned  
15 for the past 16 months until July 5, 2007 and his earnings  
16 potential is 6,667.40 monthly given his last earnings record.  
17 This means that the defendants have denied the Plaintiff  
18 earnings in the amount of 106,678.36 over the past sixteen  
19 months, but the Plaintiff goes further. In particular, the  
20 Plaintiff claims that the entire period is compensable and  
21 actionable in that the Untied States Embassy in Trinidad  
22 established that the Plaintiff was not a Trinidadian in 1993  
23 and returned the Plaintiff to the United States in 1994 after  
24 29 days in Trinidad. Thus, the Defendants should have known  
25 that the Plaintiff is not a person who was born in Trinidad,

1           but an American and that all and any detention is punitive  
2           making the entire span of time to be actionable for specific  
3           damages in the amount of loss production for the entire months  
4           of custody by the Defendants when they know the Plaintiff is a  
5           citizen of the United States.

6  
7 **145.**       Plaintiff is not close to his mother, father or siblings,  
8           but the Plaintiff claims that the continued incarceration by the  
9           Defendants, when they know that the Plaintiff is a citizen, is  
10          such that it has robbed him of valuable time to make up with his  
11          mother and father and his siblings.

12 **146.**       The mother and father of the Plaintiff are both closing  
13          in on life's final chapter and their time on this earth is  
14          limited. The Plaintiff has been robbed of the time he needs in  
15          order to seek rapprochement with his family, this is especially  
16          egregious when the Plaintiff has informed the Defendants of his  
17          family, his mother and his father and the fact that he needs to  
18          be able to see his family.

19 **147.**       Plaintiff claims that he has been alienated from his  
20          family by the actions of the Defendants.

21 **148.**       Plaintiff claims that the actions of Immigration and  
22          Customs Enforcement have resulted in alienation of affection.  
23          Because of the confinement of this citizen, Plaintiff may never  
24          be able to have his chance to consort with his mother and father  
25          before they expire. This is unpardonable.

1                   **DENIAL OF COUNSEL AND MAILING LETTERS TO ENTITIES**

2           **149.**       Plaintiff specifically claims that the Defendants have  
3                   denied him the right to counsel by their actions with the  
4                   telephone and with their actions in opening confidential  
5                   communications, failing to mail confidential communications and  
6                   by their failure to allow the Plaintiff to speak confidentially  
7                   with counsels.

8           **150.**       Plaintiff claims that under the First Amendment and the  
9                   Fifth Amendment as well as the New Mexico State Laws and New  
10                  Mexico Constitution he has a right to access counsel and to gain  
11                  such counsel. That under the ICE National standards he has a  
12                  right to speak confidentially with those counsels and putative  
13                  counsels and the failure of the Defendants to grant him the  
14                  opportunity to gain counsel is a violation of his constitutional  
15                  rights.

16           **151.**       In particular, the Plaintiff claims that on several  
17                  occasions the Plaintiff complained about the video that is being  
18                  played by ICE called, Know Your Rights Video. Plaintiff claims  
19                  that Immigration and Customs Enforcement and Garman are aware  
20                  that the video contains false information as it was first  
21                  published in the year 1997 and they know that the information on  
22                  the video is no longer credible. When the Plaintiff complained,  
23                  Immigration and Customs Enforcement and Garman failed to correct  
24                  the problem. When the Plaintiff submitted letters directed to the  
25                  Florence Project in Arizona, the makers of the video, those

1 letters were not mailed by Immigration and Customs Enforcement  
2 and Garman. Instead, they held and continue to hold those  
3 letters. This marks not only a denial of due process but denial  
4 of access to counsel as the Florence Project is made up of  
5 lawyers who assist persons in the detention of ICE.

6 **152.** Plaintiff specifically claims that he was writing to  
7 complain of the content of the video and to seek legal assistance  
8 from the Florence Project but his mail was returned several times  
9 by Immigration and Customs Enforcement and the letters were not  
10 mailed because Immigration and Customs Enforcement realized and  
11 feared that the letters were speaking to the incorrectness of the  
12 informational video being played daily, two times a day with its  
13 false information.

14 **153.** Plaintiff claims that he had a right to complain to the  
15 Florence Project and he had a right to reach the Florence Project  
16 for assistance in his case where he is a citizen of the United  
17 States and Immigration and Customs Enforcement has violated that  
18 right.

19 **154.** Plaintiff further claims that when he realized that the  
20 problems are the Northwest Detention Center were not going to be  
21 solved by Immigration and Customs Enforcement, Plaintiff prepared  
22 seventeen letters directed to the members of the higher hierarchy  
23 of the Department of Justice.

24 **155.** Plaintiff claims that he placed those letters into the  
25 receptacles with sufficient postage upon those letters.

1 **156.** Plaintiff claims that Immigration and Customs Enforcement  
2 failed to mail those letters and it is presumed that Immigration  
3 and Customs Enforcement opened those letters.

4 **157.** In one of those letters was a tort claim against the  
5 United States because of Immigration and Customs Enforcement's  
6 behavior.

7 **158.** Plaintiff claims that Immigration and Customs Enforcement  
8 denied him due process by failing to mail the letters to the  
9 persons that they were designated to go and this violated the due  
10 process of the Plaintiff under the Fifth Amendment.

11 **159.** Plaintiff claims that he has a legal right to contact the  
12 Attorney General, any members of his staff, and all members of  
13 the ICE hierarchy because those are the custodians of the  
14 Plaintiff and Immigration and Customs Enforcement violated that  
15 right by failing to mail the letters.

16 **160.** Plaintiff claims that Plaintiff made administrative  
17 grievances about the fact that Immigration and Customs  
18 Enforcement was allowing the air waves of FCC authorized  
19 commercial stations to be blocked by in-house devices that were  
20 attached to the televisions.

21 **161.** Plaintiff claimed that he complained that the devices  
22 were set where they would block the programming of Black Public  
23 Radio and the Black Station, 92.5 F.M.

24 **162.** Plaintiff claimed that when he informed Immigration and  
25 Customs Enforcement that he was going to the Federal

Communications Commission to complain and to the Washington Utilities and Transportation Commission Immigration and Customs Enforcement waited until the mail was submitted for mailing and the mail was never mailed even though the records were created as if the mail was sent. The officials at the Agencies never received the mail.

163. In particular, the Plaintiff alleges that a governmental agency will respond to any mail sent to that agency, either in the form of a form letter or in a general statement or a specific response, but the fact that Immigration and Customs Enforcement failed to mail the letters means that the agency never got any opportunity to respond and did not respond, and none of the letters were ever returned.

164. Immigration and Customs Enforcement failed to mail the letters designated as legal mail to the FCC and the UTC because he desired to ensure that the Plaintiff did not receive due process on his complaint. Moreover, the Plaintiff alleges that the Plaintiff has a right to make a complaint to the FCC and the UTC and that falls under the First and Fifth Amendment of the United States Constitution as well as the New Mexico State laws. Plaintiff claims that he has a right to seek redress and that right is ensured by the United States and The State of New Mexico.

**165.** Plaintiff claims that Immigration and Customs Enforcement prevented him from making his complaints simply to create a

1 material benefit so that he could continue blocking access to the  
2 Black Stations on the radio dial by using devices which are  
3 believed illegal under the FCC and UTC rules and regulations.

4 **166.** Further, the Plaintiff claims that the Defendant was  
5 presented with 220 letters for mailing to a law firm's associates  
6 and partners where that firm was Latham and Watkins. Petitioner  
7 claims that the letters were not mailed by the Defendant, but the  
8 letters were destroyed by the Defendant and not mailed.

9 **167.** Similarly, letters were mailed to O'Melveny and Myers,  
10 another law firm seeking assistance with the Petitioner's case.  
11 The letters were not mailed by the Defendant, a violation of due  
12 process and denial of the right to counsel.

13 **DENIAL OF A NOTARY**

14 **168.** Plaintiff claims that Immigration and Customs Enforcement  
15 has denied him the access to a notary and the denial to a notary  
16 has been a denial of access to the courts.

17 **169.** In particular, the Plaintiff claims that the Defendant  
18 knows the Plaintiff has utilized numerous names including Duane  
19 Rudder, Antolin Andrews, Antolin Andrew Marks and Vincent Daniel  
20 Hopper.

21 **170.** The Plaintiff claims that Immigration and Customs  
22 Enforcement knew that the Plaintiff legally changed his name to  
23 Antolin Andrew Marks on March 16, 2006, a final name change.

24 **171.** Defendant received a certified copy of the document and  
25 gave a copy to Immigration and Customs Enforcement.

1 **172.** Plaintiff claims that the Defendant, Immigration and  
2 Customs Enforcement, received a request from the Plaintiff for  
3 notarization of a document where such document sought that the  
4 document be notarized to allow the Plaintiff to enter the  
5 Superior Courts of North Carolina to seek redress against the  
6 Compass Group.

7 **173.** Plaintiff specifically claims that the Court required  
8 the notarized document to initiate suit.

9 **174.** In particular, Plaintiff claims that Immigration and  
10 Customs Enforcement failed to grant the notary on the issue when  
11 he was granting notary services to every other detainee in the  
12 facility and he did not provide the Plaintiff notary services  
13 simply because he wished to prevent the filing of the suit.

14 **175.** In particular, the Plaintiff claims that the Defendant,  
15 Immigration and Customs Enforcement, has been active in  
16 preventing due process by failing to return the grievances which  
17 has the document attached to it where the document sought  
18 notarization of the document for filing in the North Carolina  
19 Courts.

20 **176.** Further, the Plaintiff claims that the Defendant,  
21 Immigration and Customs Enforcement, has been denying the  
22 Plaintiff access to the Superior Court of Los Angeles because he  
23 has denied the access to a notary to notarize the document the  
24 Plaintiff sought to file in that court where such document was a  
25 Living Will and Last Testament.

177. Plaintiff claims that he presented the document for notarization and Immigration and Customs Enforcement refused to have the document notarized when he was notarizing documents for all other detainees.

**178.** The injury is the fact that the Plaintiff cannot file the things he wishes to file in the Courts and Immigration and Customs Enforcement has prevented those filings above.

179. In particular, the Plaintiff claims that he has been discriminated against by Immigration and Customs Enforcement who allows other persons to gain notary services but has prevented the Plaintiff by punishing the Plaintiff by preventing such access to the Plaintiff where the Plaintiff sought notary services.

180. In particular, the Plaintiff claims that he has been prevented from accessing the Courts because Immigration and Customs Enforcement has acted to prevent the access, the specific access the Plaintiff wished to have and this is because Immigration and Customs Enforcement acted to injure the Plaintiff rights.

## **FAILURE TO SUPERVISE AND TRAIN**

**181.** Plaintiff claims that the failure to supervise and failure to train also resulted in the taking of 40.20 cents of his commissary items by untrained employees who were untrained and unsupervised by Immigration and Customs Enforcement.

1       **182.**       In particular, the Plaintiff claims that Immigration and  
2                   Customs Enforcement has a duty to enforce the contract and to  
3                   ensure the protection of the Plaintiff's property from the  
4                   employees of Geo, but Immigration and Customs Enforcement has  
5                   failed to supervise and has failed to train those employees who  
6                   violate ICE Standards and violate the law in their actions in  
7                   injuring the Plaintiff by the taking of the Plaintiff's property.

8       **183.**       Plaintiff claims that the failure to train and supervise  
9                   is manifested in the manner in which the individual employees  
10                  routinely skirt their own written rules and policies.

11      **184.**       Plaintiff claims that the failure to train and supervise  
12                  is manifested in the manner in which the individual employees  
13                  routinely break the laws of the United States.

14      **185.**       In particular, the Plaintiff claims that he was punished  
15                  by Charles Mc Burney, under the direction of Immigration and  
16                  Customs Enforcement for using the computers in the library to  
17                  prepare a letter to Neil Clark, a protected activity under the  
18                  Constitution as Neil Clark is a defendant in several suits filed  
19                  by the Plaintiff. Furthermore, Neil Clark is the direct custodian  
20                  of the Plaintiff, but when complained against, Immigration and  
21                  Customs Enforcement indicated that Neil Clark is not a privileged  
22                  person for communication and the Plaintiff's letter to Neil Clark  
23                  was not protected by the law. As a result, the Plaintiff was  
24                  forced to spend seven days in Segregation as punishment for this

1                   protected activity due to the lack of training and lack of  
2                   supervision by Immigration and Customs Enforcement.

3       **186.**       Plaintiff claims that the lack of training and lack of  
4                   supervision by the Defendant caused the Plaintiff injury in his  
5                   religious beliefs in that the Plaintiff's religious beliefs  
6                   command that he take his meals separately, but Immigration and  
7                   Customs Enforcement allowed the employees he is to supervise deny  
8                   the Plaintiff the right to eat separately and thus violated the  
9                   Plaintiff's religious freedom.

10      **187.**       Plaintiff claims that the lack of supervision has allowed  
11                  the employees to conspire against the Plaintiff with impunity and  
12                  such conspiracy was known by Immigration and Customs Enforcement  
13                  and he failed to curb the conspiracy or prevent the conspiracy  
14                  against the Plaintiff's rights.

15      **188.**       In particular, the Plaintiff claims that Immigration and  
16                  Customs Enforcement knew or should have known that letters to  
17                  newspapers are sacrosanct and should not be tampered with. He  
18                  knew that letters to Congress and the Senate should not be  
19                  tampered with. He knew that letters to the ICE and DHS were  
20                  sacred and should not be tampered with. He knew that letters to  
21                  the embassy should not be tampered. Hell, he even knew that the  
22                  legal documents that are printed in the library where they are  
23                  produced by detainees are sacred and should not be read, copied  
24                  or tampered with but he caused all of the above to be read,  
25                  copied and tampered with by his employees, mostly for his own

1 material benefit because he and Garman used the proceeds of those  
2 documents they invaded in their own particular needs.

3 **189.** Plaintiff claims that Immigration and Customs Enforcement  
4 knew that the documents submitted for copying by the Plaintiff  
5 should not be copied and should not be faxed to his counsels, but  
6 he allowed his staff to do just that. It is specifically pleaded  
7 that the failure to train and failure to supervise resulted in  
8 the denial of meaningful access to the Courts as Immigration and  
9 Customs Enforcement not only allowed the reading of legal  
10 material the Plaintiff submitted for copying, but allowed those  
11 documents to be copied for Geo's use by their faxing the  
12 documents to their lawyers, and allowed the documents to be kept  
13 and stored by Geo in boxes in the warehouse where they were  
14 accessible to Geo and ICE employees in violation of the  
15 Plaintiff's rights to confidentiality.

16 **190.** Plaintiff claims that the lack of training and  
17 supervision by Immigration and Customs Enforcement caused the  
18 Plaintiff injury through the fact that when the Plaintiff  
19 directed mail to defendants, such as Immigration and Customs  
20 Enforcement, with proper instructions to mail the letters First  
21 Class Mail, or, in the alternative, alternative delivery to the  
22 personal box of the defendant.

23 **191.** Plaintiff claims that his rights have been injured by the  
24 failure to train and supervise and through deliberate action to  
25 deny his due process in that Immigration and Customs Enforcement

1 has approved THE GEO GROUP INC.'s employees mishandling of the  
2 Plaintiff's mail. It is the position of the Plaintiff that the  
3 mail must be placed in the First Class mail when it is  
4 designated.

5 **192.** It is further the Plaintiff's claim that the First Class  
6 mail, must actually be given to the Post Office Person who  
7 arrives to collect the mail.

8 **193.** It is the Plaintiff's claim that the only alternative to  
9 such mailing is to hand the letter directly to the person it is  
10 directed to or to place it into a box where it is general  
11 practice that the mail will be received by the person, such as  
12 Immigration and Customs Enforcement.

13 **194.** What Immigration and Customs Enforcement has done and has  
14 encouraged is to allow Geo Employees to not place the letters  
15 into the mail, to return the letters and they then demand that  
16 the Plaintiff place the First Class Mail into the ICE box in the  
17 unit where that box is susceptible to opening by detainees.

18 **195.** It is the Plaintiff's claim that when he mails documents  
19 to any person, including Immigration and Customs Enforcement,  
20 the mail is to either be placed into the U.S. Mails as directed,  
21 or alternatively placed into the mailbox of Immigration and  
22 Customs Enforcement or the other person the Plaintiff seeks to  
23 mail the letter to especially because these are legal defendants.

1 **196.** Plaintiff claims that his due process has been violated  
2 by the failure to mail his documents and such failure is a source  
3 of recurring stress upon the Plaintiff.

4 **197.** In fact, the Plaintiff claims that the American  
5 Correctional Association's Recommended Standards include a clause  
6 that allows for confidential communications with Immigration and  
7 Customs Enforcement, Clark, or any other custodian.

8 **198.** Moreover, ICE National Standards include a clause that  
9 allow for confidential detainee communications with Immigration  
10 and Customs Enforcement and any other person who works in the  
11 facility where that person has a significant impact ability over  
12 the Plaintiff's conditions of confinement or confinement.

13 **199.** Plaintiff claims that his rights have been violated by  
14 the deliberate returning of his mail, repeatedly, by Immigration  
15 and Customs Enforcement and through approval by Immigration and  
16 Customs Enforcement.

17 **200.** Plaintiff claims that the recurring activities with his  
18 legal mail is done specifically and solely to harass, molest and  
19 punish the Plaintiff for maintaining legal actions in the Courts.  
20 In particular, the Plaintiff claims that the mail is returned  
21 repeatedly over and over again only to cause him to be late in  
22 his filings, to be late in his letters to legal entities and to  
23 prevent him from communicating with entities in a timely manner.

24 **201.** Plaintiff claims that Immigration and Customs Enforcement  
25 has copies of the grievances and Tort Claim demands that were

1           filed in conjunction with all the matters herein but has failed  
2           to provide the Plaintiff with a copy of those documents in  
3           violation of the Freedom of Information Act and the Privacy Act  
4           and he maintains those copies of the documents solely to prevent  
5           the Plaintiff from receiving the documents to use in legal cases  
6           that are pending and in this case.

7       **202.**      Exhibits to be provided during discovery will show that  
8           Immigration and Customs Enforcement has prevented copies of the  
9           documents that would provide for a showing of his denial of due  
10          process on all the items raised here.

11       **203.**      Exhibits to be provided during discovery will show a  
12          document that shows that Immigration and Customs Enforcement's  
13          failure to train and supervise caused Geo employees to open,  
14          read, and copy a letter that was received by the facility for the  
15          Plaintiff. Such letter was from Angela Gonzalez, a person who was  
16          expressing her thanks for the Plaintiff's assistance to her  
17          sixty-two year old father. Immigration and Customs Enforcement  
18          authorized the opening, reading, copying and using of that  
19          letter, **without ever giving the Plaintiff a copy of the letter or**  
20          **envelope to keep.**

21       **204.**      Immigration and Customs Enforcement construed the letter  
22          as being payment for legal services instead of a gift as it was.  
23          The letter stated, "Albino Guardiola has asked me to send this to  
24          you for helping him with his paperwork." Nothing in the letter  
25          stated that the Plaintiff had solicited this money. Nothing in

1           the letter indicated that the Plaintiff had charged Guardiola for  
2           this money, yet Immigration and Customs Enforcement allowed the  
3           Plaintiff's money to be taken by Geo. **The money was not returned**  
4           **to Angela Guardiola-Gonzalez.** The money order was just missing.  
5           However, on the date of 7-10-07 the same money order arrived in  
6           the mail to the Plaintiff. There was no return address and the  
7           post mark of the envelope was from Tacoma, indicating that the  
8           letter had been mailed in Tacoma. Angela Gonzalez resides in  
9           Yakima, some two or three hours away. Thus, it is improbable that  
10          Angela Guardiola Gonzales drove the distance and deposited the  
11          money order in the mail in Tacoma and what is more believable is  
12          that someone at the Northwest Detention Center placed the money  
13          order into the envelope at Tacoma. In any case, Immigration and  
14          Customs Enforcement should never have intercepted that money  
15          order for any purpose.

16 **205.**       Moreover, once the money order was received, Immigration  
17          and Customs Enforcement then held the money order and cashed the  
18          money order without the specific endorsement of the Plaintiff. In  
19          effect, the Plaintiff claims that Immigration and Customs  
20          Enforcement stole the forty dollars and used it for his own  
21          purposes because he cashed the money order without endorsement  
22          and illegally used the money order, just like he had a previously  
23          received thirty dollar money order where there were specific  
24          instructions that no money order should be cashed without the  
25

1                   signature endorsing the money order. In effect, Immigration and  
2                   Customs Enforcement committed theft.

3 **206.**       When the Plaintiff sought to gain the numbers off the  
4                   money order to lodge a complaint against Immigration and Customs  
5                   Enforcement with the United States Post Office, Immigration and  
6                   Customs Enforcement would not allow the Plaintiff to get the  
7                   serial numbers off the document, an act of obstruction of due  
8                   process and justice.

9 **207.**       Similarly, the Plaintiff, on or about in February of 2007  
10                  received a money order from his friend, Lyla Paul, who utilized  
11                  the pseudonym Amber Felix because she did not want to be bothered  
12                  by ICE. The money order was for 04. for a subscription to the Los  
13                  Angeles Times. When the money was received, Immigration and  
14                  Customs Enforcement questioned he receipt of the money order.  
15                  Then, when the Plaintiff sought that they send all money held by  
16                  Immigration and Customs Enforcement to his counsel, Keith Jordan,  
17                  that money order was missing from the set of money orders. Only  
18                  later did Immigration and Customs Enforcement state that the  
19                  money order was in their "evidence locker." These are not police  
20                  agents. Why is the Plaintiff's money order in an "evidence  
21                  locker."

22 **208.**       Further, the Plaintiff then wrote a letter to Guardiola  
23                  explaining certain things to her including the fact that he could  
24                  not accept money for working for Guardiola. That letter was never  
25